IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2931 OF 2005

Hanif Iliyas Azmi ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr.S.N.Chimade with Mr.Rajeev Sawant for Applicant.

Mr.K.V.Saste, A.P.P. for Respondent.

Mr.H.C.Halli for Complainant.

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CORAM: A.M.KHANWILKAR, J.

MAY 4, 2005.

P.C.

1. Heard Counsel for the parties.

2. Having regard to the evidence on record, I see no reason to depart from the conclusion reached by the lower Court in rejecting the anticipatory bail application preferred by the present Applicant, in view of the seriousness of the offence and material to indicate the complicity of

the Applicant.

3. Counsel for the Applicant, however, submits that the Applicant has recently undergone coronary artery by-pass surgery in Bombay Hospital and although he has been discharged from Bombay Hospital, he is presently undergoing treatment at Sushrusha Hospital, Mira Road from 29th April 2005. Counsel for the Applicant, on instructions, states that if reasonable time is granted to the Applicant, the Applicant will surrender before the Investigating Officer after one week.

4. The fact that the Applicant has been recently operated for by-pass surgery, is substantiated from the Certificates placed on record. However, discharge certificate issued by the Bombay Hospital is not placed on record. Assuming that the Applicant requires further treatment at Sushrusha Hospital, it should be convenient for the Applicant to report to the Investigating Officer within one week from today.

5. Application is disposed of on the above

terms, on condition that the Applicant shall report to the Investigating Officer on or before 12th May 2005, failing which, it will be open to the Investigating Officer to proceed against the Applicant in accordance with law.

6. Till 12th May 2005, the Investigating Officer himself or by deputing some responsible Officer, can visit the Hospital, wherein the Applicant has been admitted for further treatment, by making surprise visits to ensure that the Applicant is physically in the Hospital.

7. In case, it is noticed that the Applicant was not available in the Hospital, for any reason, the Investigating Officer may proceed against the Applicant in accordance with law, without further reference to this Court.

8. The limited protection granted to the Applicant will be available provided that the Applicant deposits passport with the Investigating Officer by tomorrow i.e. 5th May 2005 before 11.00 a.m.

9. The Applicant shall also not cause to influence the prosecution witnesses or tamper with the prosecution evidence, in any manner, taking advantage of the above said limited protection given to the Applicant, in the peculiar facts of the present case.

A.M.KHANWILKAR, J.